

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BAO XUYEN LE, INDIVIDUALLY, and as the Court appointed PERSONAL REPRESENTATIVE OF THE ESTATE OF TOMMY LE, HOAI "SUNNY" LE, Tommy Le's Father, DIEU HO, Tommy Le's Mother, UYEN LE and BAO XUYEN LE, Tommy Le's Aunts, KIM TUYET LE, Tommy Le's Grandmother, and QUOC NGUYEN, TAM NGUYEN, DUNG NGUYEN, JULIA NGUYEN AND JEFFERSON NGUYEN, Tommy Le's Siblings,

Plaintiffs.

vs.

MARTIN LUTHER KING JR. COUNTY as a sub-division of the STATE of WASHINGTON, and KING COUNTY DEPUTY SHERIFF CAESAR MOLINA.

Defendants.

STIPULATION

IT IS HEREBY STIPULATED between the plaintiffs and Defendant King County, parties to the above-entitled action, by and through their respective attorneys of record that the following items of evidence will be made available for release from the custody of the King County Sheriff's Office by King County Detective Christopher Johnson to Sierra Lanholm for STIPULATION AND ORDER RE: DISCOVERY EXAMINATION AND CHAIN OF CUSTODY PROCEDURE [2:18-CV-00055-TSZ] - 1

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1 transmittal to Wilson C. Hayes, Ph.D. (Dr. Hayes), Hayes & Associates, located at 2390 NW
2 Kings Boulevard, Corvallis, Oregon 97330, an expert identified by the plaintiffs, for the purpose
3 of nondestructive testing, examination, and photographing according to the guidelines set forth
4 by ASTM Designation E 1188-17; ASTM Designation E 860-07(2013) e2; and ASTM
5 Designation E 1492-17, 2005.

6 The parties stipulate that upon release of the following items of evidence to Sierra
7 Landholm, the items will be transported by the plaintiffs to Wilson C. Hayes by Fed Ex
8 overnight shipment with return receipt signature documentation. The parties stipulate that
9 immediately upon completion of the nondestructive testing, examination, and photographing by
10 plaintiffs' expert, Wilson C. Hayes will return the following physical items of evidence directly
11 to Sierra Landholm by Fed Ex overnight shipment with return receipt signature documentation
12 and Sierra Landholm will return all of the following items of evidence directly to Detective
13 Christopher Johnson with the King County Sheriff's Office with all return receipt signature
14 documentation. Sierra Landholm will work directly with Detective Christopher Johnson of the
15 King County Sheriff's Office to arrange a reasonable time schedule for the release and return of
16 all of the following items of evidence.

17 The parties agree that the transfer and testing of the following items of evidence from the
18 King County Sheriff's Office to plaintiff's expert, Wilson C. Hayes, will not interrupt the chain
19 of custody of these physical objects and will not affect the admissibility of any of the items on
20 that basis. All parties stipulate that the below listed items are physical objects that were
21 recovered at the time of the subject incident, were preserved and maintained in an unbroken
22 chain of custody, and will remain in an unbroken custody despite this transfer and testing and the
23 items subsequent return to the King County Sheriff's Office. The parties also agree that the

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1 transfer and testing of these physical objects must allow the items to remain in substantially the
2 same condition as when the incident occurred.

3 The evidence listed below and subject to this Stipulation will be handled and inspected
4 for the following nondestructive testing, examination, and photographing according to the
5 guidelines set forth by ASTM Designation E 1188-17; ASTM Designation E 860-07(2013) e2;
6 and ASTM Designation E 1492-17, 2005 as requested by the plaintiffs:

- 7 1. “BLACK INK PEN” which will be subject to fracture analysis to determine how the
8 “black pen” came to be broken, to be conducted by Wilson C. Hayes, Ph.D..
- 9 2. “METAL WEATHER STRIP FROM DOOR” which will undergo 3D scanning (PICZA
10 PIX-4, Roland DGA Corp., Irvine, CA 92618) which will determine the shape and size of
11 the object that caused any damage to the “metal weather strip”, to be performed by
12 Wilson C. Hayes, Ph.D. High resolution photography, and stereozoom microscopy may
13 also be employed to analyze the weather strip using the materials and methods described
14 above.
- 15 3. “CASTS FROM WOOD DOOR FRAME” which will undergo 3D scanning (PICZA
16 PIX-4, Roland DGA Corp., Irvine, CA 92618) which will determine the shape and size of
17 the object that caused any damage to the “casts from wood door frame”, to be performed
18 by Wilson C. Hayes. High resolution photography, and stereozoom microscopy may also
19 be employed to analyze the casts from the wood door frame using the materials and
20 methods described above.
- 21 4. “CTJ11, CTJ12, CTJ13, and CTJ14” (the knives taken from the residence of Tommy Le)
22 which will undergo inspection to determine if they are the shape and size that would
23 match the results of 3D scanning examination, to be performed by Wilson C. Hayes,

1 Ph.D. High resolution photography, and stereozoom microscopy may also be employed
2 to analyze the casts from the wood door frame using the materials and methods described
3 above.

4 Plaintiffs will be responsible for payment for the testing, examination and transport of the
5 items from the King County Sheriff's Office to their investigator/paralegal and to their expert,
6 Dr. Hayes, and from Dr. Hayes to their investigator/paralegal and to the King County Sheriff's
7 Office to return the items. Plaintiffs will provide Dr. Hayes with a copy of this stipulation and
8 will confirm that Dr. Hayes will abide by the terms of this stipulation prior to the release of the
9 items. Plaintiffs or Dr. Hayes will provide counsel for King County and Cesar Molina copies of
10 any final reports generated with any pictures or 3D imaging taken or created by Dr. Hayes in the
11 course of his examination or testing. The agreement of the parties for the plaintiffs' expert to
12 perform his own inspections will not affect the admissibility of any prior testing by the
13 Washington State Crime Lab or King County Sheriff's Office should the items be destroyed, lost
14 or altered in any way through the examination by Dr. Hayes or the transmittal of the evidence
15 items. Further, this agreement does not limit the legal recourse of any party should the items of
16 evidence be destroyed, lost or altered in any way in the testing, examination or transport of them
17 under this Stipulation.

18 Note: Defendant Cesar Molina is not a party to this stipulation.

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20 DANIEL T. SATTERBERG
21 King County Prosecuting Attorney

22 S/
23

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ORDER

Pursuant to the stipulation between plaintiffs and defendant King County, docket no. 39,

IT IS SO ORDERED.

DATED this 8th day of November, 2018.

Thomas S. Bally

Thomas S. Zilly
United States District Judge

Presented by:

DANIEL T. SATTERBERG
King County Prosecuting Attorney

s/

S/

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